

JAN 17 2013

TONY R. MOORE, CLERK  
WESTERN DISTRICT OF LOUISIANA  
LAFAYETTE, LOUISIANA

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF LOUISIANA  
LAFAYETTE DIVISION

Kenneth J. Mouton

Civil Action 12-1320

versus

Judge Richard T. Haik, Sr.

Louisiana, et al

Magistrate Judge C. Michael Hill

**JUDGMENT**

Before the Court is petitioner's Motion To Vacate Judgment [Rec. Doc. 16] in which petitioner contends that the Court did not consider his opposition to the Magistrate Judge's Report and Recommendation to dismiss his civil rights complaint. *R. 9.*

On July 5, 2012, the Magistrate Judge issued a Report and Recommendation recommending that this matter be dismissed with prejudice, subject to reassertion if the requirements of *Heck v. Humphrey* are met.<sup>1</sup> [Rec. Doc. 9]. The Court adopted the Report and Recommendation on November 2, 2012 and dismissed plaintiff's action with prejudice. [Rec. Doc. 14]. In its Order, the Court stated that no objection had been filed, when in fact, petition had filed a timely objection on July 18, 2012, *R. 11.* In light of its inadvertent mistake, the Court has considered petitioner's objection in reconsideration of its November 2, 2012 Judgment.

For the reasons contained in the Report and Recommendation of the Magistrate Judge previously filed herein [Rec. Doc. 9], and after an independent review of the

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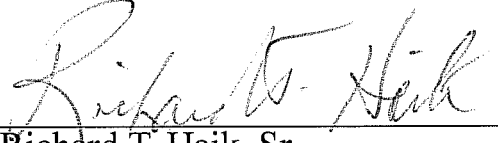
<sup>1</sup> The Magistrate Judge explained that at this time petitioner "does not contend that his armed robbery and aggravated criminal damage to property convictions or his twenty year sentence have been reversed, expunged, or declared invalid," thus, petitioner's claims which are directed at the validity of his criminal prosecution and resulting convictions and sentence are barred by *Heck v. Humphry*, 512 U.S. 477, 487 (1994).

entire record, including petitioner's objection entitled, "Plaintiff's Response To The District Courts Report And Recommendations To A Complaint Under The Civil Rights Act 42 U.S.C. & 1983," [Rec. Doc. 11; 18], this Court concludes that the Report and Recommendation of the Magistrate Judge is correct and adopts the findings and conclusions therein as its own.

**IT IS ORDERED** that the Court's November 2, 2012 Judgment [Rec. Doc. 14] is **VACATED**.

**IT IS FURTHER ORDERED** that plaintiff's civil rights action is **DISMISSED WITH PREJUDICE** in accordance with Rule 41(b) of the Federal Rules of Civil Procedure.

Thus done and signed this 16<sup>th</sup> day of January, 2013 at Lafayette, Louisiana.

  
Richard T. Haik, Sr.  
U.S. District Judge